

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

Paper No. 9

SHUMAKER & SÍEFFERT PA 8425 SEASONS PARKWAY SUITE 105 ST. PAUL MN 55125

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of Ludwig, et al. Application No. 09/927,920 Filed: August 10, 2001 Attorney Docket No. 1017-015US01 Title: PRODUCT IDENTITY PRESERVATION AND TRACING

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", filed June 24, 2002 (Certificate of Mailing dated June 17, 2002).

The petition under 37 CFR 1.47(a) is GRANTED.

The above-identified application was filed on August 10, 2001, without an executed oath or declaration. Accordingly, on September 28, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

On January 16, 2002 applicant filed the a petition under 37 CFR 1.47(a) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant purchased a one month extension of time. Rule 47 applicant's reply consisted of an affidavit by Peter M. Reyes, Jr., attorney for Cargill, Inc. In the affidavit, attorney Reyes detailed how on two occasions an Assignment and Declaration/Power of Attorney were forwarded to inventor Nelson for his signature. In addition, the affidavit stated that Mr. Nelson has to date not returned the forms.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The January 16, 2002 petition was dismissed in a decision mailed on April 17, 2002 because petitioner was not successful in showing that the entire application papers had been sent to the nonsigning inventor for his review. However, the instant petition included an affidavit from Reyes stating that the entire application papers were forwarded to nonsigning inventor Nelson for his review on May 13, 2002. No response from Nelson has been received.

While applicant has not supplied a statement of the last known address of the non-signing inventors, the address listed on the declaration is assumed to be the last known address. Applicant must notify this Office if this is not the last known address of non-signing inventor Nelson.

The declaration filed January 16, 2002 and the instant petition has been found to be in compliance with 37 CFR 1.47(a).

The application is hereby accorded Rule 1.47 status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan

Supervisory Petitions Examiner

Office of Petitions Office of the Deputy Commissioner for Patent Examination Policy